

NOISE ORDINANCE TASK FORCE

September 7, 2021

Meeting of the Noise Ordinance Task Force held at 1901 S. Alamo, Room A & B WebEx was called to order at 2:10 pm by Deputy Director Amin Tohmaz.

Roll Call by Denise Hastings. Those in attendance are as follows:

Members

Gemma Kennedy
Sam Aguirre
John Doski
Dawn Larios
John Brenneman
Savita Rai
Amin Tohmaz

Non-Members

Danny Liguez
Michael Shannon
Jenny Ramirez
Denise Hastings
Ximena Copa Wiggins
Felix Ramirez
David Uhler

Amin Tohmaz – Ask if there were any questions about the minutes from last meeting. (There were no objections to the minutes). There have been three community meetings so far. The first meeting was a hybrid meeting on August 17, 2021. The second was on August 31, 2021 and that was an in-person meeting. The third was on September 2, 2021 and was strictly WebEx. Overall, we were able to hear from both side; residents and business owners. One of the bigger items mentioned in the meeting was outside amplification; having speakers outside. Technology is allowing for smaller, weatherproof equipment that can put out louder volumes.

Gemma Kennedy – Was impressed with the number of people affected by noise in residential areas and the different parts of the city affected by noise that is not necessarily from businesses. The other big thing was the city attorney informing task force that decibel readings are not required for prosecuting a case according to Section 21-52.

Amin Tohmaz – The challenge is, if you go to court without readings, the complainant will need to be present as a witness. A fourth item on the agenda is basically action items. One of them is the pilot program. The DSD director presented the department's budget to the mayor and city council members. One of the council members talked specifically about the pilot program. He wants to push the pilot program out three more months. One of the recommendations Development Services has is to extend the task force recommendations until the pilot program is over. That would allow for data for the task force to make a more accurate recommendation. Does the task force agree to wait for pilot program data for continue forward?

Sam Aguirre – Will be comfortable either way. Hopes that during the period of the pilot program that there is commitment to step up enforcement of businesses near residential areas if there will be a delay in recommendations.

Amin Tohmaz – The pilot program will give the responsibility to enforce noise to code enforcement. It will be a kind of hybrid system. When a call comes in on Thursday, Friday and Saturday, the call will come to code compliance and a code officer will be dispatched to the call. The code officer will make location, listen for noise and get a reading if necessary. If there is a violation, the code officer will contact SAPD to come out and issue a citation. Overall, it will be more enforcement and faster response time.

Sam Aguirre – Will the pilot program include education of any of those in charge of enforcing the ordinance so that they understand the ordinance because this has been a problem.

Amin Tohmaz – The code officer assigned to the program will be trained on the noise ordinance, which is the current ordinance in the code. They will be trained on how to use the noise meter. Twenty-five meters have been ordered. The team will be equipped with the right tools and education.

Dawn Larios – Who was the council member who request the extension of three months for the pilot program.

Amin Tohmaz – The request was made by Councilman Courage of District 9.

Dawn Larios – Does SAPD feel that the pilot program is helping or hurting. What has been the feedback from the police?

Michael Shannon – The pilot program has not started yet. It is scheduled to start in October. As mentioned, one councilman has requesting six months for the program to help determine what should happen with the code or the process or both. The councilman did also ask for an interim report at the three-month mark. We will be gathering information on how many calls are made, how many violations found, how many citations issued and what locations are in violation; businesses or residences. Council will provide DSD with directions on this next Thursday.

Gemma Kennedy – Amin mentioned a three-strike proposal; education, warning and then citation. How will this be done with the pilot program?

Amin Tohmaz – Our normal process for anything we do, is to educate the citizen of what the code says and what they need follow. The second time is a warning, or a notice of violation and the third time is a citation. When we start the pilot program, we will be using today's code which does not have that three-strike rule. Most likely when we start this program and go to calls because the noise is loud, we are going to ask the police department to issue citations. Does the task force want to extend the recommendation?

Gemma Kennedy - The main thing is enforcement and looking at that, so she would go with extending.

Sam Aguirre – Is not opposed to the extension.

John Doski – would rather not extend the CCR recommendation.

John Brenneman – Would be against extending

Dawn Larios – would like to extend.

Savita Rai – From a legal perspective it would be futile to revise the ordinance at this point and then come back three months later and possibly revise again. This would be a waste of resources. Would agree to the extension.

Amin Tohmaz – would recommend extending as well.

John Brenneman – If we extend the recommendation, would the task force take a pause in the bi-weekly meetings for a while.

Amin Tohmaz – Would recommend not to pause the meetings but can have a meeting once a month to provide information from the pilot program. Also, the task force can discuss some of the other items such as enforcement, noise levels, should permits be issued, etc.

Michael Shannon – Would recommend going with three weeks between meetings. The pilot program will deal mostly with enforcement technique, efforts, process and that data needs to be brought back to the group. The code officers will focus on enforcement.

Amin Tohmaz – To tally up, there are five members that would like to extend and two that would be against extending. The next item to talk about is having a primary and a back up for the task force. There are fifteen members and today only seven showed up. There are no rules for the task force such as a quorum for meetings, but to make sure the information gets out there, it is recommended that a backup be in place when someone cannot attend a meeting for whatever reason.

The next item to discuss is that some members and some in the community feel that the task force is not balanced with representative city wide. Does the task force want to take this back to city council to request one representative from each council district, expand the task force or keep it the way it is?

Sam Aguirre – Comments about lack of representation are an effort to derail the intentions of the CCR. Residents city wide will benefit from any changes to the ordinance. Strongly opposed to changing the task force.

John Brenneman – Agrees with Sam's comments. The issue is the same. If there is a noise problem in District 2, it will be the same problem in any other district.

Gemma Kennedy – Agrees it is the same in all districts. The enforcement will not only be for businesses but will be for residents/neighbors as well.

Michael Shannon – Starting in October, on Thursday, Friday, Saturday evenings we will have six or seven code officers dedicated to take noise calls. The noise calls will not go to the police, they will come to us. The code officer will take a decibel reading and if there is a violation, will report that to SAPD. SAPD will write the citation. Their response can be from thirty minutes to an hour later. They will be checking businesses and house parties alike. There will be some instances where a police officer will have to accompany the code officer.

John Brenneman – How will the calls get to the code officer?

Amin Tohmaz – The process will not change. You can call 311 or SAPD non-emergency number and the call will be dispatched. The code officers will have radios from SAPD to get the dispatched calls.

John Doski – Unless something has changed in the last three months, 311 does not accept noise calls. The calls have to go to non-emergency SAPD.

Amin Tohmaz – 311 gets a lot of calls for noise and they transfer those calls to SAPD dispatch.

Dawn Larios – Going back to question of whether to include all ten council districts, the answer is yes. The data that is going to be collected will be coming from all ten city council districts. This is not an effort to derail the task force at all. Every district should be included.

Amin Tohmaz – What is the vote for the rest of the task force members on expanding.

Gemma Kennedy – Votes No.

John Doski – Concerned in terms of some of the other members are not on this call, particularly well put by Jodie Bailey Newman that a number of very different and divergent interest and issues. Is happy that he is on the task force with downtown interest represented but does worry about the broad applicability. Would rather be cautious and inclusive than maintain what is now.

Savita Rai – Should abide by what their brief is which is the CCR with specific districts as it relates to commercial and residential interacting. On the other hand, can see where everyone needs to be represented since this will impact businesses and residences city wide. If the task force is expanded, it will be hard to stay on point.

Amin Tohmaz – Agrees with Savita. We have met six times already and if we add more members at this point, we will have to start over and bring everyone up to speed. A bigger task force will also make it harder to get things accomplished. Votes No. As of now there are five No's and two Yes's to expand.

Amin Tohmaz – The next item is to discuss the themes. One of the recommendations the task force will create a small sub-committee that could meet more frequently and bring decisions to the full task force. No one present was against the idea of a sub-committee if needed. Will go through some of the themes with the task force present and if they want to add or delete anything, it will be discussed.

The first theme is enforcement. Enforcement includes multiple things: what will be the process, will we be proactive, what potential penalties will there be, are we going to add the three-strike rule and which agency will responsible for enforcing. The second theme is noise levels: are we good the current decibel levels, do we want to keep as is or increase/decrease levels or make the same. The hours of low sound levels or quiet times; is that something to be modified. The third theme is amplification/vibration; do we need to include in the ordinance, if so how will it be enforced. The fourth theme is measurement; where do we measure from. The fifth theme is permit process; will we have a process for obtaining permits. The sixth theme is clarity of the ordinance/communication. Seventh theme is neighborhood mitigation and the eighth theme is noise health standards.

John Doski – If we are going to be reviewing and revisiting those eight topics, it would be appropriate to take a moment to get people's feedback on how we can organize approaching the eight topics. There has been some discussion related to sound engineers that there are different factors with speakers, such as positioning that come into play. It would be helpful to have the experts included in the discussions as well as representation from both sides of the equation. Right now, the task force is pretty heavy on residential representation.

Gemma Kennedy – There were two sound engineers at their first meeting and they have an interesting way of approaching sound mitigation such as how noise travels, how do you measure it and why does it impact some neighbors and not others.

John Brenneman – Would like to point out that items 2, 3 and 4 would benefit from input from a sound engineer and the enforcement should definitely be Code Compliance. Item 6 is something to be considered by the task force and item 7 should be up to the neighborhood associations.

Amin Tohmaz – Does the task force want to talk about enforcement today. What agency should be responsible. DSD did a survey of several cities in Texas and outside the state and every single one of them said the police department handles the enforcement due to safety. A couple use a hybrid of code and PD.

Gemma Kennedy – Talking with the different council districts that are not represented and what are their issues, it was said that neighbors making loud noises is a problem, but they feel that it would not be safe for code compliance to go into neighborhoods. In Dallas, they use code compliance to go to venues, because they feel venues are safer. So, should SAPD be responsible and have a code compliance unit working with them, will code officers be threatened, will they be taken seriously.

Dawn Larios – Would like opinion of code staff

Denise Hastings – As a code enforcement officer, we go to different properties all the time; residential and business for various reasons. The only difference when it comes to noise is that we will be going to properties in the middle of the night when people are in their homes or businesses relaxing and maybe drinking which may be cause for concern. Code in the past, had abatement officers that were certified peace officers who were able to handle situations differently. They were able to arrest someone if they got out of control or aggressive. A code officer is not a peace officer and will not be able to handle a situation is someone gets out of control.

John – Agrees with the comment. We are mostly dealing with the bad apples and they do not even respect the police. There should be a peace officer part of the enforcement.

Jenny Ramirez – As a code manager has had the opportunity during the Covid pandemic to oversee the Emergency Declaration Enforcement team. During the course of the year there were dedicated code officers working until midnight and two in the morning enforcing the mask requirement and distancing requirement when the declaration was changing on a weekly basis. Has worked with the department over twenty years and this was the most changing and versatile example of code enforcement in action. There were some times when things could have gotten out of hand, but each time the code officers did an exceptional job of handling themselves and keeping themselves safe and enforcing the ordinance. There was constant training, updates with supervisors, managers and legal. When the officers felt unsafe, they were told they could walk away from the situation and call police if necessary. Believes that staff can rise to the occasion. The biggest difference between that and the pilot program is that they worked in groups of two.

Savita Rai – met with former assistant director of code who was present when the code was written, and she states when it was initially written it was to be enforced by the Health Department and then an ordinance was passed to change it to code enforcement. Before the abatement officers were in place, the code officer was to enforce the noise ordinance and they were never to go alone to a property for safety reasons. Recommends that during the pilot program that it not just be one code officer going to a property, but two. Also, residential complaint; neighbor against neighbor, they would wait for two separate complaints so as not to get involved in neighbor disputes. The police department will still have to be called because code officers do not have the authority to demand identification. Identification is needed to file a criminal case.

Sam Aguirre – Likes the idea of having code enforcement or specially dedicated personnel for the noise ordinance but would like to make sure the police department always has a concurrence jurisdiction in enforcing the noise ordinance. An example would be that while SAPD is driving around and hear noise violation will proactively enforce.

Amin Tohmaz - Has written along with code officers and the EDE team and actually on the first night while riding with Vice, an owner of the business had to be arrested. Normally, businesses are not a problem. Would be more worried about house parties. You would get a call at about one in the morning when most of the party goers are drunk and it may be a problem.

Gemma Kennedy - During the pilot program will the code officer be going out in pairs?

Amin Tohmaz - Based on what city council is proposing, most likely the code officers will be sent out by themselves. They will not be interfacing or talking with anyone. They are going to go to property, listen to the noise, get the reading, and make an assessment. If a citation needs to be issued, they will contact the police department to come out and issue citation. For now, it is more of a hybrid program.

Gemma Kennedy – The code officer will get the dispatch call to go out and measure the noise and the police will talk with them if they are in violation. Will they issue a citation straight out or will there be a three-strike rule with a warning first?

Amin Tohmaz – In today's ordinance there is no three-strike rule. If code shows up and the readings are really loud, a citation will be issued. The police will also have the option to ask them to lower the sound and then issue a warning.

There are four choices here; (1) keep it with PD, (2) give it to code enforcement, (3) make it a hybrid with code and PD, and (4) don't answer right now, but wait for results from pilot program.

Sam Aguirre – would agree with option 4

Gemma Kennedy – agrees with option 4 and take into consideration code officers need to work in twos.

Dawn Larios – Businesses are more of a controlled establishment as opposed to going into a neighborhood where you never know what you are going to get. Would like to see the hybrid for businesses and SAPD for residences.

Amin Tohmaz- What kind of overall process would the task force like to see. For example, would you want a three-strike process and what kind a time frame are we going to use for repeat offenders.

Gemma Kennedy – Keeping track of calls for businesses would be a good idea because right now, citations are not being issued.

Dawn Larios – There are some residences that repeatedly call about certain businesses to the point of harassment. The business is not cited because they are not in violation, but they continue to get called on.

Amin Tohmaz - We will get multiple calls for the same address and we are obligated to go to each call, but if there is no violation, no citation will be issued. The pilot program will allow us to see if we are getting repeat offenders or just multiple calls for the same issue.

The next meeting will be September 28, 2021.

Meeting adjourned at 3:49 pm